GROUPING OF RECIDIVISTS AND THE INDEFINITE TERM OF IMPRISONMENT

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Today the study of recidivous crimes is in the centre of criminological research.[1] Theoretical and practical experts search for the causes and conditions that bring about and determine this particularly dangerous form of crime, its periodic intensification, and try to find organizational and educational means – the latter taken in the broadest sense – by which the intensity of this form of crime can be reduced, restrained. The necessity and importance of intensifying the fight against recidivous crime is justified not only by the extreme dangerousness to society involved in this form of crime, but also by the fact that the ratio of recidivists is an unfavourable one within the structure of crime taken as a whole. More than half of all criminal acts are commited by repeated offenders.

The ratio of persons with a criminal record among convicts is as follows[2]

in 1964	28.0 per cent
in 1965	27.0 per cent
in 1966	27.9 per cent
in 1967	29.8 per cent
in 1968	28.2 per cent
in 1969	32.4 per cent

Thus it appears that the ratio of recidivists has not changed substantially during the last five years, it shows a certain stagnation. More than one-fourth of the convicts have a criminal record, and this ratio exeeds even 40 per cent in certain age groups.

No all-comprehensive supply of data is available for answering the question how many times recidivists have been convicted previously. In this respect we only can have resort to the results of special criminological researches.

The criminal-statistical division of the Central Statistical Office has analysed the cases of persons validly sentenced because of hooliganism in Budapest in 1964.[3] Of the 405 convicts subjected to this analysis, 194, that is 48 per cent, had been convicted previously.

Of which 72 persons, i.e. 37 per cent had been convicted previously

on 1 occasion
54 persons, i.e. 28 per cent on 2 occasions
68 persons, i.e. 35 per cent on 3 or more occasions

From another analysis, also conducted by the criminal-statistical division of the CSO[4], it appears that of the 326 persons sentenced for manslaughter in 1962, 141 persons, i.e. 43.3 per cent, had been convicted before.

Of which 82 persons, i.e. 58 per cent, on 1 occasion
25 persons, i.e. 18 per cent, on 2 occasions
34 persons, i.e. 24 per cent, on 3 or more occasions

Among the perpetrators of manslaughter, the number of persons previously sentenced on three or more occasions is relatively low. But this is natural, since the recidivous perpetrators of manslaughter have usually committed crimes of violence previously, which means that they had been sentenced to longer terms of loss of liberty. Consequently three or more recidivisms occur less often as a matter of course. The high ratio of repeated recividists among the perpetrators of crimes against property, which are punished with shorter terms of imprisonment, agrees with this finding. According to the results of an analysis, also made by the criminal-statistical division of the CSO, 54.7 per cent of the perpetrators of crimes against personal property had been sentenced before.[5]

Of which 27 per cent had been convicted before on 1 occasion
23 per cent on 2 occasions
50 per cent on 3 or more occasions.

Which means that half of the recidivists in crimes against propety were brought to court for the fourth time.

But as concerns their weight, all these data are not very significant if compared to the sample taken by the Statistical Division of the Ministry of Justice.[6] The sample covered 600 recidivists who showed the following distribution according to their previous convictions:

Previously convicted	once	1.3 per cent
	twice	17.7 per cent
	three times	21.7 per cent
	four times	16.5 per cent
	five times	13.6 per cent
	six times and more	29.2 per cent

Compared with the foregoing data this means that 81 per cent of the convicts were brought to court, because of criminal acts, four times or more often. But for nearly one-third of them, even five or more callings to account were of no avail.

We present the following data only as a matter of special interest.[7]

Of 31 recidivist women convicted for theft (a survey made in Kalocsa prison)

2 were convicted previously	3 times
5 were convicted previously	4 times
2 were convicted previously	5 times
9 were convicted previously	6 times
6 were convicted previously	9 times
1 was convicted previously	16 times
4 were convicted previously	22 times
1 was convicted previously	36 times
1 was convicted previously	38 times

The fact that it is possible to sentence a person 38 times, 36 times or 22 times shows that our penal law does not protect society sufficiently from hardened criminals.

Upon presenting statistical data, we deem it suitable to make reference, on the basis of pertinent criminological research, to the sentences imposed on recidivists.[8] The survey comprised the gravest recidivists, i.e. those relapsing many times.

Persons sentenced twice represented	3.5 per cent
Persons sentenced three times represented	6.5 per cent
Persons sentenced four times or more often represented	90 per cent

of the multitude analysed.

71.9 per cent of the punishments with loss of liberty imposed on this group of recidivists did not exceed two years, 35 per cent not even one year. To quote the author's words: "This problem presents itself even more strikingly if we study the cases of recidivists with ten or more relapses. 76 per cent of the imprisonment sentences imposed on them did not exceed two years, 58 per cent not even one year." This means that the majority of recidivists are sentenced to short terms, irrespective of how many times they have been sentenced before. And what is more, a greater per cent of grave recidivists with ten or more relapses get shorter sentences – under one or two years – than the recidivists in general.

The aforementioned survey of the Ministry of Justice shows a similar picture. It appears from a recent study that in the group of recidivists where those with four or more relapses represented 81 per cent, the terms of imprisonment were shorter than two years in 46 per cent of the cases.

The verity of these facts is fully supported by a study in the field of violence made by the Department of Criminology of the Faculty of Political Science and Jurisprudence in the Eötvös Loránd University.[10] It appears from this survey that 35 per cent of the violent recidivists –

i.e. persons sentenced 3 times or more often for crimes of violence – previously – were sentenced to loss of liberty under 1 year,

60 per cent of them to loss of liberty under 2 years. The sentences imposed on habitual recidivists, i.e. persons sentenced previously 5 times or more often, were

for 36 per cent loss of liberty under 1 year
for 78 per cent loss of liberty under 2 years.

The data we have presented here show clearly that recidivism constitutes a grave danger to society and means and measures much more efficient than the present ones are required to fight against recidivism more successfully.

1) The grouping of recidivists

It is a long-debated problem of criminal and criminological literature how recidivists should be considered in holding them liable under criminal law. Namely the Criminal Code (Act V of 1961) only regards one special case of recidivism as a qualifying circumstance, giving the following definition: "A recidivists is a person who has already been sentenced, before committing the crime, to loss of liberty for having wilfully committed a similar crime, if five years have not yet elapsed between serving the sentence, or cessation of its enforceability, and the commission of the more recent crime." (Section 115.) This concept of recidivism does not consider the dangerousness to society which is manifest in the successive perpetration of criminal acts by the same person. And this definition also fails to take into account cases where the perpetrator was sentenced previously to punishment other than loss of liberty or has committed crimes of negligence.

As a result of the criminological approach, the dangerousness to society of the perpetrator was given increased emphasis. According to Guiding Principle No. 6 of the Supreme Court, the concept of the recidivist taken in the criminological sense "includes the repeaters of criminal acts in whom a certain consistent, relatively persevering, attitude of committing crimes can be ascertained . . . The moral conception of most of these recidivists is basically defective or wrong, and they are more or less accustomed to an antisocial way of life." The recognition and practical application of this concept is of extreme importance, because it is one of the accomplishments of Hungarian criminological research which has perceptibly moderated the excessively act-centred attitude of penal law. Further importance of the criminological concept of recidivism is the fact that – as opposed to the concept under penal law – it is not an exactly defined notion, but is a skeleton-concept which is filled with contents by the court in the course of the trial by giving due consideration to all circumstances of the case, i.e. it is the court that decides whether the repeater of criminal acts is to be regarded a recidivist or not.

Hence the criminological concept of recidivism groups the repeaters of criminal acts according to their degree of dangerousness to society.

Another result of the spreading criminological attitude was the framing of Law Decree 21 of 1966, according to which the perpetrators sentenced to loss of liberty are grouped not only in respect of the length of term, but also according to their dangerousness to society. Penal institutions of different regimens have been established for this purpose.

The aforementioned study of the Department of Criminology of the Faculty of Political Science and Jurisprudence in the Eötvös Loránd university permits yet another conclusion, namely that the recidivists group in the criminological sense of repeaters of criminal acts is still heterogeneous as concerns the individuals, i.e. can be broken down to further homogeneous groups which deserve attention in respect to legislation, judicature and enforcement of punishment alike.

Habitual criminals

It appears clearly from the findings of research that there exists a more restricted group of recidivists, the category of what is called the habitual criminals, which is characterized beyond any doubt by an anti-social mental attitude, to which crime means practically a way of life, because they have been sentenced at least 5 times within 20 years counted from the perpetration of their first crime. Considering the average length of terms, this category of criminals spends at least as much time in jail as at liberty. It is the consequence of their criminal way of life first of all that more than one-third have no family relations. The ratio of divorced people is very high among them. It is typical of them that they hardly can adjust themselves to family and working communities. Most of them commit crimes not by making use of a favourable situation, a tempting opportunity, but with premeditation. They are always on the alert to satisfy their needs in illegal ways. They have a special set of moral values, the conventional moral precepts of society mean nothing to them. It becomes evident again and again that the relatively short terms of loss of liberty imposed on them are ineffective both as reprisal and educational measure.

Recidivists in crimes of violence

Research in the field of violence has led to the conclusion that there exists another homogeneous group of recidivists which, similarly to the previous category, constitutes extreme danger to society. These are the violent criminals, who have been sentenced before at least three times for crimes of violence, and in whom aggression and violence are among their essential traits.

Such recidivists are usually characterized by the cult of violence, by parading or glorifying physical strength at the place of work, in the course of amusement, in the family circle. In our days, in the last third

of the 20th century, when human reason and intelligence produce creations that open up boundless horizons, these people push brute physical force into the foreground. They live in primitive circumstances, their attitude towards life, their way of thinking, is primitive. Their schooling is strikingly poor, and their body of knowledge is accordingly scant. About 30 per cent of them have only completed a few forms of the primary school. About three-fourth of them have no professional qualification whatsoever. Thus their incomes are inevitably low, particularly as concerns per capita incomes, because the number of children in this category is very high. According to their conception, no "genuine" amusement is possible without the excessive consumption of alcohol. For the most part they are unable to adapt themselves to society, to the family, to the working community. If they are, their nexts of kin or their fellow-workers are certainly of the same cast of mind. It is a consequence of their primitive way of thinking that they are out for satisfying their needs and desires at once. Excessive self-esteem, prompt vengeance of supposed or real offence is characteristic of them. Taking the law into their own hands is regarded as permissible by them. They often fly into a passion, are short-tempered as a rule, cannot, and do not want to, control their emotions, their temper.

These criteria are the components of a particular sort of behaviour: of the violent behaviour pattern. They are the manifestations and consequences of the perpetrator's mental attitude, his way of thinking, his character.

Having recognized the aforesaid, apparently constant, properties of recidivists in violence, we inevitably reach the conclusion that in order to intensify the fight against crime we must develop, work out experimentally – taking into account also experience abroad – those educational means which may be the most efficient in respect to this category of recidivists.

Needless to say, a criminological assessment, delimitation of habitual criminals, recidivists or violent recidivists, is not enough; what is necessary here is that also the legislators should recognize all this, that all this should be given special legal regulation.

In our opinion the valid Hungarian Criminal Code does not attach sufficient importance to violence as concerns its dangerousness to society. We often and readily assert that in socialism man is the highest asset. But this principle does not fully prevail in our criminal law, since the protection of property is more efficient – even according to the principle of proportional punishment so much critized by criminologists – than the protection of man and his corporeal integrity which are the objects of the majority of violent crimes. Let us take a few examples. The Criminal Code provides that theft, embezzlement, fraud, malversation to the prejudice of personal property, as well as aggravated assault, shall be punished with imprisonment up to 3 years. Or: theft, embezzlement, fraud or malversation to the prejudice of social property, as well as indecent assault, or aggravated assault committed with particular

cruelty, shall be punished with imprisonment ranging from 6 months to 5 years.

I should like to emphasize, however, that it is not the duration of terms we are chiefly criticizing from the criminological point of view; what we criticize is the contents, the forms of punishment. What we must ask is this: can an identical mode of punishment be successful in respect to treacherous, fraudulent persons, and in respect to aggressive, bullying persons, or first offenders and habitual criminals, alike ? It is evident that different types of punishment are necessary in case of violent criminals, and also in case of hardened recidivists.

According to present estimates in Hungary, about 30 per cent of the persons discharged from prison leave without the definite intention to adapt themselves to society. (This ratio is higher in case of recidivists, and lower in case of first offenders.)[11] The absence of subjective and objective conditions of adaptation to society which exists in a certain part of the discharged is well known to the eduction officers of prisons. Hence it may be concluded in all probability beforehand that part of the discharged will commit another crime within a short time following discharge. But against these the law does not render adequate protection to society. Within the range of punishments adjusted to the seriousness of the act, the law leaves the determination of the term of imprisonment to the expert knowledge of the courts. We are of the opinion that the length of time required for the re-education of repeated recidivists is scarcely any more commensurate with the seriousness of the crime committed by them (this applies particularly to crimes against property where the principal yardstick is the amount of damage caused). Hence loss of liberty of definite duration, adjusted to the seriousness of the act, cannot lead to the expected result in the majority of cases. For example, if a person is sentenced for the third or fourth time because of hooliganism or incorrigible unwillingness to work, the few months he may get, or even two years that can be imposed (or three years in aggravated cases) are not likely to suffice for his re-education.

But even if the law offered the possibility for courts to impose in case of repeated recidivists high amounts of punishment irrespective of the seriousness of the act, one may well ask whether the court is able to determine in an exact manner in the course of criminal proceedings how much time the re-education of the perpetrator would require, considering that part of the judges is not sufficiently familiar with the conditions in prisons.

Would it not seem a sounder foundation – theoretically, logically, and in every respect – to take resort to the solution that in cases of repeated recidivists a decision should be reached only with the co-operation of experts who can assess on a daily basis the convict's conduct, work, and attitude in his relations with his fellow-men ?

This paper, however, is not a general discussion of the re-education of persons sentenced several times; we only wish to concern ourselves with the reeducation problem of the above-presented categories of violent and habi-

tual criminals. We believe that despite the fact that these two categories have considerable dissimilar features, they show a number of common traits. One main common feature is the particularly grave danger to society which is manifest in both. Another common feature is that these persons have an antisocial mental attidue, that their consciousness, their character, their personality is distorted in respect to certain social requirements. It is also a common characteristic that loss of liberty of relatively short duration has no effect in them, and that therefore we must apply to them a type of punishment and treatment which is based on long-lasting, purposeful educational activities.

2. The indefinite term of imprisonment.

The fact that the rate of recidivous crime does not decrease in Hungary, and that violent crime has shown a certain increase in recent years, has greatly contributed to placing the problem of our penal system in the focus of criminological and penological literature. Among the various views and suggestions we find the idea of introducing as a type of punishment loss of liberty of indefinite duration, which could serve as a means for the re-education of habitual recidivists.[12]

Loss of liberty of indefinite duration was put on the agenda for the first time at the turn of the century, in the course of reformist endeavours in criminal law, at the time when the criminological attitude was gaining ground.

And it is not by chance that today, when there is an upward trend in socialist criminology, it has become timely again. The conditions of a gradual realization of the deterministic conception are opening up only in the circumstances of the building of socialism where politics and science are increasingly pervaded with the materialist view, and where the education of people, the ceaseless improvement of their mentality, is in the foreground of the cultural-organizational and educational function of the state. In order to employ the deterministic conception, it is necessary to reshape the way of thinking of theoretical and practical experts working within the framework and in the interest of the jurisdictional system; and it is equally important to reshape the legal consciousness, the sense of justice of the entire population, which for many centuries have assimilated themselves to the view of proportional punishment.

A frequent argument against the loss of liberty of indefinite duration is that it is contrary to the principles that determine the now valid penal system. This is true to the extent that the present penal system is partially based on the notion of freedom of action, of free will. But as soon as we take as our starting point the determinedness of human conduct, we find full harmony between the principle and the type of punishment.

A similar, often voiced argument of the opposers of loss of liberty of indefinite duration is that this type of punishment violates fundamental human rights; also the criminal must have the right to know when he

will be discharged, and must not be exposed to the torture that uncertainty means to him. This reasoning is a splendid example of false humanism. Crimes are committed yearly by 1 – 2 per cent of the population, and it is only on a few per cent of the convicts that the imposition of loss of liberty of indefinite duration seems to be expedient. In proportion to the entire population we may therefore only speak in terms of tens of per mille. According to the aforesaid view, the right and demand of the entire population, of society, to live in security, free from fear and harassment may suffer damage for the sake of the "rights" of some ten per mille. It is the basic idea of the socialist society that the interests of the community must have precedence over the interests of individuals, of the minority, if these interests are in conflict or dissimilar. In our view, this principle must prevail also in the jurisdictional system.

We not only endorse theoretically the loss of liberty of indefinite duration as a means of education; we even think that it can already be introduced on a limited scale as the first step towards the increased protection of society. This type of punishment might be imposed on violent recidivists and habitual offenders, depending on the seriousness of the crime and other conditions. We even think it feasible that cases in which loss of liberty of indefinite duration can be imposed should be tried by special courts. These courts would devote increased care to studying the perpetrator's personality, his conditions of subsistence, since the choice of the most efficient means and methods of education is only possible with a thorough knowledge of his past and the chain of causality. The detailed personality study to be prepared by such courts could serve as an excellent basis for the educators of the law enforcement agencies.

Another conceivable solution is that courts should impose loss of liberty of a certain range (e.g. from 3 to 15 years) within which the date of discharge would be determined by a committee or board formed according to the above principles (this would be similar to the US system). Some penal institutions could be marked out for providing the personal conditions of such enforcement.

Agreeing with the idea of introducing loss of liberty of indefinite duration, Judge Dr. Ödön Bodnár and Public Prosecutor Dr. Ferenc Veres have worked out a concrete solution: "We think that this type of punishment should be introduced for the repeated recidivist perpetrators of three groups of crime involving moral turpitude.

For crimes of violent character. This group would comprise the cases of bodily injury defined in Section 257 of the Criminal Code, rape (Section 276), indecent assault (Section 277), the cases of homosexual acts as defined in paragraphs (1) and (2) of Section 278, and violence against an official person defined in Section 155. Finally we would include here also the crime of hooliganism (Section 219) as this usually materializes through violent acts.

For what may be called parasitical crimes

This category would include incorrigible unwillingness to work defined in Section 214, as well as professional prostitution, inducing another to professional prostitution, abetment of professional prostitution, being kept by a person carrying on professional prostitution, and procuring (Sections 283 to 287).

For crimes committed wilfully to the prejudice of property (Chapter XVI of the Criminal Code).

Namely it is the perpetrators of these three groups of crime that form the decisive majority of repeated recidivists.

Persons who will have been sentenced for the crimes enumerated above – either for crimes within a group, of for a crime defined in any of these groups – to loss of liberty four times within ten years that precede the perpetration of the act under consideration, i. e. will have been brought to court for such crimes for the fifth time, ought to be considered as habitual recidivists.

Loss of liberty ranging from 3 to 15 years ought to be imposed by court on such persons. In this way the perpetrator would serve at least three, but not more than 15 years. Depending on the objective seriousness of the crime committed – this would be of importance also here – the court should determine in the sentence the shortest period of time within this range to be served by the perpetrator in the penal institutes. Depending on the act committed, the minimum term to be served could be determined by the court as more than 3 years.

Any of the penal institutes operating at present could serve for the enforcement of such punishment. The staff dealing with the convicts in such an institute should be made up of specially qualified experts. This staff of experts trained in education, psychology, criminology and law could subject the newcomer convicts to a personality test right away. After getting an insight into the background of their criminal conduct, it would be possible to reveal individually the course of events that led to turning the perpetrator into a criminal.

We are of the conviction that the turning into a criminal is the result of lasting objective impacts as a consequence of which inhibitory systems are being built up in him which counteract the behaviour patterns as might be expected in a community, obliterate the correct, moral stimulus reactions. At the same time the inhibitions which would impair his asocial, amoral manifestations are missing from him. Now we are of the opinion that in a penal institution suggested by us the harmful (proactive) inhibitions can be eliminated, and the proper ones (retroactive inhibitions) can be built up in the course of lasting, individualized treatment which should be carried on in accordance with a previously determined order of subject-fields. All this should go on simultaneously with making the convict accustomed to regular work – possibly skilled work with – educating him to keep civic discipline, raising his standards of knowledge and education. All this should form part of shaping in him a new system

of attitudes, of re-educating the criminal by employing the means of legal prejudice, of making him a useful member of the community who is willing to adapt himself to society.

After the expiry of the minimum term to be served compulsorily, the board composed of the aforesaid experts should inform the court about the state of the re-education of the convict. If this board finds that this process had gone on successfully and has reached a favourable stage, it would make a recommendation for transferring the convict to a working place (establishment). Essentially, this would be a working place for the enforcement of punishments integrated with the penal institution, and under the same headquarters and the same expert staff (not to be mistaken for the enforcement degree existing at present), but would have a looser organizational structure which would take the convicts with whom this is already justified nearer to their adaptation to society.

If the board of experts – including the experts conducting the process of re-education – finds that the process has been completed, it should make a detailed analytical proposition- supported by the manifestations of the convict during the time served, and by other objective facts – to the court. It would be the responsibility of the court to decide, by taking into account and considering all objective and subjective circumstances, whether the convict may be discharged. Discharge should be from the aforesaid place of work. The adaptation to society of such persons should be ensured beforehand by finding proper employment for them, helping them to get accommodation, and by creating other objective circumstances that consolidate accomplishments.

In making our suggestions we have kept in mind that the introduction of this type of punishment should as far as possible not involve considerable financial input. Any existing prison would suit the purpose of the suggested institution, since in our opinion one institute would be sufficient. The selection of a proper staff might present some problem, but a favourable basis already exists for this as we have mentioned above. The training of experts would seem solvable partly by means of extension training courses for existing staffs and college graduates. Perhaps the highest investment expenditure would be necessary for establishing the working place connected with the penal institution. But this could be organized gradually, because after the introduction of the system years will pass before the first group of convicts is transferred to the working place."[13]

The system of indefinite terms would be no novelty in the valid Hungarian penal system. The widely employed practice of placing convicts on probation is a similar institution where the court reaches a decision on the basis of the recommendation of the education officers of penal institutes. And loss of liberty of expressly indefinite term can be imposed on young offenders. In the Criminal Code this is not defined as punishment, it is called an educational measure. Pursuant to paragraph (2) of Section 91, it is not for the court to determine the term of education in a reformatory school, because the Code provides that the shortest term to

be spent there is one year, and that a young offender who completes his eighteenth year in a reformatory school must be discharged from there. And the decision concerning discharge is the responsibility of the school board, not of the court.

It appears from the Ministerial motivation that, contrary to the fundamental principles of the Criminal Code, educational measures of indefinite duration are necessary for the protection of society, and for the reformation of young offenders. As we see it, the legislators interpret such measures to be of pure educational nature, free from all elements of reprisal, and it is therefore that they are differentiated from punishments. It is obvious, then, that punishment of indefinite term to be imposed on adults, on repeated recidivists, can be introduced only if legislators and leading criminologists change their present views on some fundamental theoretical questions. Such questions are:

1. Can reprisal be the purpose of punishment ?

2. Is it possible to educate any person, meaning by this the habitual recidivists first of all ?

3. Can we maintain the notion of the perpetrator's dangerousness to society ?

ad 1. As concerns the first question, it would seem best to start from the pertinent Section (34) of the Criminal Code, to wit: "The aim of punishment is to apply in the interest of society the prejudice defined in the law for committing the crime, to reform the perpetrator, and to restrain the members of society from all criminal actions.

In our interpretation punishment has a dual purpose – as appears from the wording of the law – namely: application of prejudice, i.e. reprisal, and prevention (special and general).

The interrelation of the two purposes is interpreted by the Ministerial motivation as follows: "In the socialist penal law it is usually the preventive effect and the educational nature of punishment that is emphasized."[13] By contrast, the comment to the Criminal Code objects to its wording, does not regard the application of prejudice as the purpose of punishment, and even generalizes this view saying that the scholars of socialist penal law agree with this view almost without exception.[14] Needless to say, this comment is an exaggeration, because several noted Hungarian criminal jurists regard the dual purpose defined in the Code as appropriate with the only reservation that – in accordance with the Ministerial motivation – they emphasize the preventive purposes.

The fact that in the Criminal Code, and in prevailing views alike, reprisal is recognized as the purpose of punishment – even if in a subordinate form – permits the conclusion that, in judging criminal human conduct, indeterminism, the concept of free will, still has an important role against determinism, the doctrine advocating the determinedness of human attitudes. Although the legal formulation of the purpose of punishment recognizes the determining effect of objective circumstances on the social level, it regards the free will as dominating for the individual in his own, more limited environment. (We do not deem it necessary to

give even an outlined description of the deterministic conception here; it has been formulated in detail and clearly in several previous papers.[16]

This theoretical parallelism hinders considerably in the course of criminal proceedings the stressing of those correlations which would necessarily get in the centre of jurisdiction if the deterministic conception were consistently observed. Such correlations are, for instance, a profound analysis of subjective and objective causes, i.e. the understanding (not approval!) of criminal conduct, and the choice of adequate educational measures on this basis.

Since the materialistic view is not compatible with the concepts of indeterminism, the view of the determinedness of criminal human conduct is increasingly accepted by the criminologists and criminal jurists of the socialist countries. If we do not accept this view, the study into causes, and preventive measures become senseless, education of the criminal becomes altogether unnecessary, because his future conduct does not depend on external impacts anyway, but depends on the perpetrator's free will. The study of causes and the prevention which have become generally accepted concepts by now, are accepted not only by criminologists, but also by theoretical and practical criminal jurists. Today the law provides[17] that in the course of criminal proceedings the causes and circumstances which have made possible or have promoted the perpetration of the crime must be explored and the proper authorities must be informed of the findings in order to prevent further criminal acts.

The deterministic conception is incompatible with the retaliatory nature of punishment, because according to this view punishment may not have any other purpose than to determine the perpetrator's future conduct in a proper direction, i.e. his proper education, and to serve general prevention. The fundamental principle of socialist criminology is the determinedness of criminal human conduct, and this follows logically from the materialist ideology. But this determinism is not identical with the biological determination of the criminal – anthropological school, nor with the mechanical social determinism of the criminal-sociological school. The essence of determinism professed by socialist criminology is that man's all past attitudes are determined, and that the future ones are getting determined, i.e. can be determined in a certain direction. This is the basis of all educational activities, and this can lay down the scientific foundations also for jurisdiction.

Criminology formulates its theoretical theses on two levels also in this respect. One level is the so-called pure theory, the level of trends giving expression to the regularities over a longer range. The other level is the level of the direct correlations between theory and reality, practice, i.e. the formulation of the theses for whose realization the conditions exist also in a given period of time. The reason why we emphasize the difference between these two theoretical levels is that the deterministic conception comprises long-range regularities, and its consistent, full employment in jurisdiction is hardly feasible at present. But there exist fields of jurisdiction where the deterministic conception can be realized to

a certain extent even in present circumstances. For instance, we regard the penal system, the enforcement of punishment, as such a field.

It follows logically from the deterministic conception that we must apply types of punishment which take into account the requirements of general prevention and at the same time ensure the reshaping of the perpetrator's personality in such a way that it should contain the intention of adaptation to social requirements. But our valid penal system does not meet these prerequisites in every respect. This is particularly conspicuous in the steps taken againts repeated recidivists. It is exactly in this field that the principal objective of criminal law, i.e. to protect society against criminals, suffers its worst flaw.

The deterministic conception is incompatible not only with the retaliatory nature of punishment, but also with the etymological concept of "punishment". This concept, like so may others in criminal law and criminal jurisprudence, inevitably reflects the indeterministic view, since it has grown from the soil of this doctrine. In accordance with the deterministic view it perhaps could be replaced by the word "measure". But until this view becomes generally accepted – in theory at least – it seems practical to adhere to the old phraseology.

We are of the opinion that in an amendment of the Criminal Code the above-mentioned duality could be eliminated, and the purpose of punishment could be formulated unequivocally as special and general prevention.

The elimination of prejudice, or, in other words, reprisal, from the purposes of punishment is not to mean, of course, that we give up the application of prejudice to perpetrators of crimes; it only would mean that prejudice, the malum, would not be formulated as the purpose of punishment, but rather as one means of prevention, of education.

Since the holding out and withdrawal of advantages and disadvantages is a generally accepted method of pedagogy, the application of prejudice is not in contradiction with the principles of pedagogy, and can therefore be regarded fully as a means of education. There is no difference of contents between prejudice and disadvantages of other type employed in teaching (e.g. withdrawal of love, prohibition to play, etc.), only the cases of application are different.

Interpretation and enactment of punishment as a measure of preventive purpose has been realized in a few countries.[18]

We hold that a proper penal system can only be framed on proper theoretical foundations. We therefore recommend that prevention should be formulated as the sole purpose of punishment, and that application of the prejudice, of malum, – which is a content element in the majority of punishments as a matter of necessity – should only figure as one means of prevention, mainly of general prevention. If it is possible at all, it is certainly in the setting of objectives that also theoretical theses pointing to the distant future can be given a legal form. The difference between everyday practice and the defined objectives is nothing else but a reality

which stimulates us to ensure the realization of these objectives with purposeful activities to the fullest extent possible.

Anyway, contrary to the purposes of punishment as defined in the Criminal Code, Law Decree 21 of 1966 defines the purpose of the loss of liberty as punishment expressly as prevention. And if the purpose of loss of liberty – forming the majority of punishments – is not reprisal, not the application of prejudice, this is still less justified in cases of lighter types of punishment.

ad 2. It follows directly from the deterministic conception, but is advocated also by socialist pedagogy, that the human personality can be formed, shaped, i.e. that everybody can be educated. Needles to say, this is not valid for the sick in whom the dangerousness to society is produced by a disease of the nervous system or some other organs. Compulsory medical treatment must be applied to such persons. But the overwhelming majority of the criminals are not in this category. They have biological and psychic properties similar to non-criminal, healthy people, and can therefore be educated in theory.

The fact that in practice we see quite a number of convicts of whom we know with certainty that the means employed have no effect on them, is either the result of a wrong choice of the educational means, or of the circumstance that we do not yet know at all those adequate educational methods by which given criminals could be corrected. On the individual level, the most important prerequisite of finding the proper means of prevention and education is a thorough knowledge of the perpetrator's personality, and the exploration of the circumstances which, through a chain of causality, have determined his criminal conduct. In order that we should be able to make a correct choice from among the educational means available to us, it is necessary that we understand the social and psychic process which has inevitably led to the committal of the crime, i.e. that we understand why, for what reason, the crime has been committed. Naturally, an understanding of the committal of a crime is not to mean its approval, since this is an attitude dangerous and harmful to society.

To understand the committal of crime, and particularly to determine the proper means of education, requires a wide scope of criminological, psychological, sociological, and, last but not least, pedagogical attainments. Not even in the possession of the most recent scientific achievements are we able to attain the desired educational effect in every case, because the specialized disciplines of our day are still not able to give exact answers to hundreds of questions connected with human behaviour. For the correction of criminals we expect considerable progress first of all from the results of criminal-pedagogic research. But that much is already certain that short terms of imprisonment are ineffective on habitual recidivists, and that from among the means known to us at present the educational activity of indefinite duration, combined with engaging the criminal in regular work, seems to be the most expedient.

If we were to reject the conception of the educability of habitual recidivists, all types of punishment – with the exception of capital punishment and life sentence – would become theoretically senseless and illogical, unless, of course, we accept also reprisal as the pupose of punishment.

ad 3. Some criminal jurists are prejudiced against imprisonment of indefinite term because they see in it the admission of the perpetrator's dangerousness to society. This aversion results mainly from the fact that some of the fascist criminal codes made possible the application of precautionary measures to elements that constituted danger to the state, even if they did not commit crimes, or if they only rendered the committal of crimes probable. And these precautionary measures were of indefinite duration.[19]

It goes without saying that the loss of liberty of indefinite duration recommended by us *has nothing in common with detention without committing a crime.* It is exactly therefore that the perpetrator's dangerousness to society is based not on assumptions, but on long criminal recods. Although criminal jurists theoretically reject the danger to society inherent in the perpetrator's personality, and only recognize the danger to society in the act,[20] the Hungarian Criminal Code contains several sections in which the dangerousness to society of the perpetrator is defined unequivocally.

According to Section 60 of the Code, those whose act or person is either at the time of perpetration or – owing to changed circumstances – at the time of judgment of little danger to society shall be admonished without imposing punishment on them. But the Ministerial motivation, quasi in an effort to mitigate the wording of the law, adds that the perpetrator's dangerousness to society depends on the dangerousness to society of the committed act.

According to Section 64 (1) of the Code, the punishment shall conform also to the dangerousness to society of the perpetrator.

It appears clearly from the Sections we have quoted that, contrary to penal theory, criminal law recognizes the perpetrator's dangerousnes to society and contains compulsory provisions for courts to assess such dangerousness. Which means that the perpetrator's dangerousness to society is an existing phenomenon according to law as well. Also Guiding Principle No. 6 of the Supreme Court states that in judging recidivists it is not the objective seriousness of the act, but rather the dangerousness to society of the perpetrator's person that gains importance. Criminological research conducted so far among recidivists shows without exception that habitual recidivists start their criminal career usually at young age. This means, among others, that the motives directed at the accomplishment of the criminal end are settling down in the perpetrator's consciousness, and that his antisocial mental attitude develops in this way. And this stereotyped way of thinking and pattern of behaviour become manifest in the repeated perpetration of crimes. The frequency of the crime-repetition by such persons gives the probability index

which numerically contains the possibility of the perpetration of a further crime. It is exactly this high probability that constitutes danger to society.

But if we accept that the frequent recidivists, such as the hardened criminals, or the violent recidivists, constitute a danger to society as a consequence of their past conduct, and because of the inefficiency of the valid penal system, would it not be obviously proper to apply to them a type of punishment which is proportionate to their social dangerousness? To determine the duration of the educational activity that would suffice for the elimination of their social dangerousness, i.e. their re-education, would be rather difficult in the relatively short course of a trial. This possibility is given much more readily in the course of everyday contacts maintained for several years, during the evaluation of daily work and conduct.

By way of conclusion we believe it to be obvious that the introduction of loss of liberty of indefinite duration is a very important problem and it is not only a question of financial and staff conditions; it means, first of all, a change in fundamental theoretical theses, the adoption of the criminological attitude towards these problems.

FOOT-NOTES

[1] See: Dr. Antal Patera: A visszaeső bűnözés néhány problémája, (Some Problems of Recidivous Crime), Ügyészségi értesítő, 1971. vol. 1.

Dr. Ferenc Györök – dr. Károly Hajda: Visszaeső bűnözés, (Recidivous Crime), BM Tanulmányi és kiképzési Csoport főnökség, Budapest, 1969.

Dr. Miklós Vermes: A visszaeső bűnözés kriminológiai vizsgálata, (Criminological Study of Recidivous Crime), Kriminalisztikai Tanulmányok, 1966. vol. IV.

Dr. György Rudas: A visszaeső bűnözésről, (vitazáró cikk), (On Recidivous Crime) article concluding a debate), Belügyi Szemle, 1964. vol. 6.

[2] See the pertinent issues of the Statistical Yearbooks.

[3] A fővárosban elkövetett garázdaságok vizsgálata, (A Study of Hooliganism Committed in Budapest)

(A központi Statisztikai Hivatal kiadványa, 1967.)

(Publications of the Central Statistical Office, 1967.)

[4] József Csonka – dr. István Vavró: Egy kriminalstatisztikai vizsgálat eredményei, Findings of a Criminostatistical Survey), Statisztikai Szemle, 1966. vol. 5.

[5] Dr. Károly Miltényi – dr. István Vavró: A vagyon elleni bűnözés okai, (The Causes of Crime Against Property) Statisztikai Szemle, 1963. vol. 12.

[6] Dr. Sándor Halász: A büntetőtörvény büntetési rendszeréről, II. (The Penal System of the Criminal Code, II.) Magyar Jog és Külföldi Jogi Szemle, 1969. vol. 9.

[7] Dr László Pál: A nevelési eszme a büntetés végrehajtásában és a bünözők nevelésének programja. (The Idea of Education in the Enforcement of Punishment, and the Programme of Educating Criminals) candidate's thesis Budapest, 1968. pp. 287 – 288.

[8] Dr. Miklós Vermes: A visszaeső bűnözés kriminológiai vizsgálata, (Criminological Study of Recidivous Crime) Kriminalisztikai Tanulmányok, 1966. vol. IV.

[9] See also Kálmán Kulcsár – István Hoóz: A büntetéskiszabásról, (On imposing Punishment) Jogtudományi Közlöny, 1968. vol. 10.

[10] The results of this research will be published in book form probably in 1971.

[11] See Dr. József Vigh: A fiatalkorúak utógondozásának néhány kérdése, (Some Questions of the Aftercare of Young Persons) Acta Facultatis Politico-Iuridicae Universi-

tatis Scientiarum Budapestiensis de Rolando Eötvös Nominatea. Tomus XI. Budapest, 1969.

[12] Dr. Gyula Gárdai – Dr. József Vigh: Észrevételek büntetési rendszerünk problémájához, (Some Remarks on the Problems of Our Penal System), Magyar Jog és Külföldi Jogi Szemle 1969. vol. 10.

[13] Dr. Ödön Bodnár – Dr. Ferenc Veress: Észrevételek büntetési rendszerünk problémáihoz, (Remarks to the problems of Hungarian Penal System) Magyar Jog és Külföldi Jogi Szemle, 1970. 6.

[14] Criminal Code of the Hungarian People's Republic, Budapest 1962. p. 90.

[15] A büntető törvénykönyv kommentárja, (Comments to the Criminal Code, vol. I. 1968. p. 198.

[16] See Dr. Gyula Eörsi: A jogi felelősség alapjai, a polgári jogi felelősség, (The Bases of Legal Liability, Legal Liability under Civil Law) Budapest, 1961.

Dr. Tamás Földesi: Az akaratszabadság problémája, (The Problem of the Freedom of Will) Budapest, 1960.

Erik Molnár: A történelmi materializmus filozófiai alapproblémái, (The Basic Philosophical Problems of Historical Materialism), Budapest, 1962.

[17] Law Decree 8 of 1962. (On Criminal Procedure), Section 13.

[18] See the Criminal Code of the German Democratic Republic (January 12, 1968.)

[19] See for example the Italian Criminal Code of 1930.

[20] See for example, Kádár – Kálmán: A büntetőjog általános tanai, (General Doctrines of Criminal Law), Budapest, 1966.

GRUPPIERUNG DER RÜCKFÄLLIGEN VERBRECHER UND DIE FREIHEITSSTRAFE MIT UNBESTIMMTER DAUER

ZUSAMMENFASSUNG

Die Untersuchung der rückfälligen Kriminellen steht zurzeit im Mittelpunkt der kriminologischen Forschungen. Die Steigerung des Kampfes gegen die rückfällige Kriminalität erfordert einerseits jene grosse Gesellschaftsgefährlichkeit, die in dieser Form der Kriminalität verborgen ist, andererseits aber jene Tatsache, dass der Anteil der Rückfälligen in der Struktur der gesamten Kriminalität ungünstig ist.

1. *Gruppierung der rückfälligen Verbrecher*

Die kriminologischen Forschungen haben nachgewiesen, dass der *strafrechtliche Begriff* des Rückfälligen die Gesellschaftsgefährlichkeit des Täters nicht entsprechend in Betracht nimmt, deshalb schuf die Richtlinie Nr. 6 des Obersten Gerichtshofes *den kriminologischen Begriff des Rückfälligen* . Demnach sind jene Wiederholer eines Verbrechens als Rückfällige zu betrachten, bei denen ein gewisses folgerichtiges, verhältnismässig aus dauerndes kriminelles Verhalten festzustellen ist, deren moralische Auffassung grundlegend mangelhaft ist, und die sich mehr oder minder an eine gesellschaftswidrige Lebensweise gewöhnt haben.

Die von der kriminologischen Gruppe der Staats- und Rechtswissenschaftlichen Fakultät der Universität Eötvös Loránd im Kreise der gewalttätigen Verbrechen- durchgeführte Untersuchung beweist, dass die Gruppe der in kriminologischem Sinne verstandenen Rückfälligen noch weitere heterogene Individuen enthält, d.h. die Gruppe kann noch in weitere homogene Gruppen gegliedert werden, die hinsichtlich der Gesetzgebung, der Gerichtsbarkeit und der Strafvollstreckung Aufmerksamkeit verdienen. Solche Gruppen sind die Gruppe der Gewohnheitsverbrecher und die der gewalttätigen Rückfälligen.

Als *Gewohnheitsverbrecher* kann jene Person betrachtet werden, die vorher in 20 Jahren von der Verübung ihres ersten Verbrechens gerechnet von der Verübung ihres ersten Verbrechens mindestens fünfmal verurteilt war. Ihr Hauptkennzeichen besteht darin, dass sie sich weder an die Familiengemeinschaft, noch an eine kollegiale Gemeinschaft anpassen können. Sie besitzen eine besondere moralische Wertskala, konventionellen moralischen Normen der Gesellschaft bedeuten für sie nichts.

Als *gewalttätige Rückfällige* sind jene wiederholten Verbrecher zu betrachten, die mindestens dreimal wegen eines gewalttätigen Verbrechens verurteilt waren und bei denen die Gewalttätigkeit eine wesentliche Eigenschaft ist. Im allgemeinen sind sie durch den Kult der Gewalt gekennzeichnet, sie rühmen sich ihrer physischen Kraft am Arbeitsplatz, während der Unterhaltung oder in der Familie. Ihre Lebensanschauung und Denkungsweise ist primitiv.

Unser jetziges Strafgesetzbuch bewertet nicht separat diese beiden für die Gesellschaft sehr gefährlichen Verbrecherkategorien. Würde es aber sie auch bewerten, bliebe die im jetzigen Strafsystem zu verhängende meistens nur kurzdauernde Freiheitsstrafe ihnen gegenüber wirkungslos. Deshalb schlagen wir für diese Verbrechergruppen die Einführung der *Freiheitsstrafe mit unbestimmter Dauer verbunden mit einer arbeitstherapischen Erziehung* vor.

Ein Teil der Kriminalisten ist mit diesem Vorschlag nicht einverstanden, da unser Standpunkt in mehreren grundlegenden theoretischen Fragen abweichend ist.

Solche Fragen sind folgende:

1. Aus der materialistischen Anschauungsweise folgt notwendigerweise die Verneinung des Bestehens des freien Willens, d.h. die Konzeption bezüglich der Determinierung des menschlichen Verhaltens. Die Ursachenforschung, aber die ganze Kriminologie hat auch nur dann einen Sinn, wenn wir die Theorie der Determinierbarkeit des menschlichen Willens, des verbrecherischen menschlichen Verhaltens annehmen, d.h., dass jedes vergangene menschliche Verhalten determiniert war, das zukünftige aber determiniert wird, determinierbar ist.

2. Aus dem in Punkt 1. Gesagten folgt, dass das Ziel der Strafe nichts anderes sein kann, als die mit einer Erziehung verbundene Prävention (generelle und spezielle), die Vergeltung muss von den Zielen der Strafe ausgeschlossen werden. Der Rechtsnachteil, das malum, wird natürlich notwendigerweise angewandt, aber nicht als Ziel der Strafe, sondern als ein Erziehungsmittel.

3. Die dritte noch zu klärende Frage ist, ob jeder Mensch erzogen werden kann, wobei wir darunter erster Reihe die mehrfach Rückfälligen verstehen. Aus der deterministischen Konzeption folgt geradewegs, aber auch die sozialistische Erziehungslehre lehrt, dass die Persönlichkeit des Menschen geformt, gestaltet werden, d.h. die Menchen erzogen werden können. Die Umerziehung der Verbrecher hängt davon ab, ob wir über entsprechende Erziehungsmittel und Methoden verfügen, d.h. ob die Erziehungslehre jene bereits entwickelt hat, und wenn ja, ob es uns gelingt, die der Persönlichkeit des Verbrechers am meisten entsprechenden Massnahmen auszuwählen.

4. Schliesslich muss noch die Frage entschieden werden, ob von der Gesellschaftsgefährlichkeit des Verbrechers gesprochen werden kann. Unser Strafrecht erkennt es an, verpflichtet sogar das Gericht diese Gesellschaftsgefährlichkeit zu beachten, die Strafrechtswissenschaft aber will diese Frage noch immer nicht auf die Tagesordnung setzen, da sie diese früher unrichtig betrachtet hat.

Die Anerkennung der Gesellschafsgefährlichkeit des Verbrechers und deren Erwägung, insbesondere bei den gegen Gewohnheitsverbrecher und gegen gewalttätige Rückfallige zu verhängenden Strafen macht die Einführung einer Erziehungsmassnahme mit unbestimmter Dauer und verbunden mit Arbeitstherapie vollkommen verständlich.

ГРУППИРОВКА ПРЕСТУПНИКОВ—РЕЦИДИВИСТОВ И ЛИШЕНИЕ СВОБОДЫ НА НЕОПРЕДЕЛЕННЫЙ СРОК

РЕЗЮМЕ

Изучение рецидивной преступности стоит в настоящее время в центре внимания криминологических исследований. Усиление борьбы с рецидивной преступностью необходимо с одной стороны в результате большой общественной опасности, таящейся в этой форме преступности, а с другой стороны благодаря тому факту, что неблагоприятным является формирование численности рецидивистов в структуре всей преступности в целом.

1. Группировка преступников—рецидивистов

Криминологические исследования доказали, что *рецидивное уголовно-процессуальное понятие* не принимает в достаточной степени во внимание общественную опасность совершителя преступления, поэтому руководящее указание № 6 Верховного Суда создало *рецидивное криминологическое понятие*. Соответственно этому рецидивистами надо считать таких повторных преступников, в отношении которых может быть установлено определенное последовательное, сравнительно более упорное совершение преступности, моральные восприятия которых в основе своей неудовлетворены и которые в большей или меньшей степени привыкли к антиобщественному образу жизни.

Исследования криминологической группы кафедры государства и права университета Этвеша Лоранда, проведенные среди лиц, совершающих преступления насильственного характера, свидетельствуют о том, что группа повторных совершителей преступлений, являющихся рецидивистами в криминологическом толковании, все еще содержит гетерогенные индивидуумы, то есть может быть разбита на такие дальнейшие гомогенные группы, которые заслуживают внимания в одинаковой степени и с точки зрения законодательства, и с точки зрения правосудия, и с точки зрения приведения наказания в исполнение. Такими группами являются закоренелые преступники и рецидивисты, совершившие насильственные преступления.

Закоренелым преступником может считаться тот повторный преступник, который ранее, в течение 20 лет, считая с момента совершения первого преступления, был осужден по крайней мере 5 раз. Важнейшей их характерной чертой является то, что они не могут приспособиться ни к семейному коллективу, ни к коллективу своих коллег по работе. Они располагают особой шкалой моральных оценок, для них никакого значения не имеют конвенциональные моральные нормы общества.

Рецидивистами насильственного характера мы считаем тех повторных совершителей преступления, которые были ранее по крайней мере трижды осуждены за совершение насильственных преступлений и у которых насилие относится к числу их существенных качеств. Для них, как правило, характерен культ насилия, щеголянье или прославление физической силы по месту работы, во время развлечений или в семейном кругу. Примитивны их жизненные взгляды и способ мышления.

Действующий в настоящее время Уголовный кодекс не расценивает отдельно эти две очень опасные для общества категории преступников. Но если уголовный кодекс и проводил бы между ними какую-либо разницу, то налагаемое для них согласно существующей уголовной системе краткосрочное лишение свободы было бы по отношению к ним безуспешным. Поэтому мы рекомендуем введение для этих групп преступников *лишения свободы на неопределенный срок, связанного с трудовой терапией*.

Часть криминалистов не согласна с этим предложением, так как наши точки зрения расходятся по многим основным теоретическим вопросам.

Такими вопросами являются:

1. Из материалистического подхода в силу необходимости следует отрицание существования свободной воли, то есто концепция, относящаяся к детерминации поведения человека. Исследование причин, да и вся криминология имеют смысл только в том случае, если мы примем теорию возможности детерминации человеческой воли, преступного человеческого поведения, то есть, что все осуществленное в прошлом человеческое поведение является детерминированным, а то, что будет осуществлено в будущем, детерминируется, может быть детерминировано.

2. Из сформулированного в пункте 1 следует, что целью наказания может быть только предупреждение (генеральное и специальное), сопряженное с воспитанием, репрессивные меры мы должны исключить из целей наказания. Правовой ущерб, málum, разумеется в силу необходимости, будет применяться, но не в качестве цели наказания, а как метод воспитания.

3. Третий вопрос, который ожидает выяснения, заключается в том, можно ли перевоспитать любого человека, понимая под этим в первую очередь многократных рецидивистов. Из детерминистской концепции прямо следует, и тому же учит и

социалистическая педагогика, что личность человека можно формировать, преобразовывать, иными словами, люди воспитуемы. Перевоспитание преступников зависит от того, располагаем ли мы соответствующими методами и средствами воспитания, то есть разработала ли уже педагогика эти средства и методы, а если да, удалось ли подобрать мероприятие, наиболее соответствующее личности преступника.

4. В заключение необходимо решить вопрос о том, можно ли говорить об опасности совершителя преступления для общества. Наше уголовное право признает, более того, обязывает суд принимать это во внимание, однако, наука об уголовном праве, поскольку она ранее это отвергала, все еще отказывается включить этот вопрос в повестку дня.

Признание опасности совершителя преступления для общества и взвешивание этой опасности в особенности в отношении назначения наказания закоренелым преступникам и преступникам-рецидивистам, совершающим преступления насильственного характера, делает вполне понятным введение воспитательных мер, связанных с трудовой терапией неопределенного срока.